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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,) No. CR 07-00643 DLJ
Plaintiff,)
v.) STIPULATION AND ORDER SETTING
CHARLES A. PHILLIPS,) STATUS CONFERENCE AND
Defendant.) EXCLUDING TIME
) OAKLAND VENUE

Plaintiff, by and through its attorney of record, and defendant, by and through his attorney of record, hereby stipulate and ask the Court to find as follows:

1. A status conference was previously set in this matter for February 1, 2008, before the Honorable Martin J. Jenkins, United States District Judge. That matter was taken off calendar by the Court and on February 15, 2008, the parties received notice from the Clerk of the Court that the case had been reassigned to the Honorable D. Lowell Jensen, United States District Judge. Through this stipulation and proposed order, the parties request that the matter be placed on this Court's calendar for a status conference at 9 a.m. on March 7, 2008.

2. The parties further request that time period from February 1, 2008, to March 7, 2008, be deemed excludable for purposes of the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*,

STIPULATION AND PROPOSED ORDER SETTING
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because the parties have used this time to review evidence in the case, to review and analyze discovery materials, investigate the case, develop a motions and/or trial strategy in light of the discovery and to determine whether additional discovery is necessary, and to effectively prepare for trial. Specifically, the parties have discussed and negotiated the production of some information regarding the confidential informant in this case. In addition, the parties have also used this time to transfer physical custody of the methamphetamine at issue in this case from the custody of the Drug Enforcement Administration Laboratory to an independent chemist retained by defendant to examine and analyze the substance in support of his defense.

3. Thus, the parties believe that failure to grant the above-requested continuance would deny defendant's counsel and defendant the reasonable time necessary for effective preparation taking into account the exercise of due diligence and that the ends of justice served by continuing the case as requested outweigh the interest of the public and defendant in a trial within the date prescribed by the Speedy Trial Act. The parties therefore respectfully request that the Court find that the time period from February 1, 2008, to March 7, 2008, is excludable pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by the Court at the defendant's request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial and because failure to grant the continuance would unreasonably deny defense counsel the time necessary for effective preparation for trial, taking into account due diligence and is not the result of general congestion of the court's calendar or a lack of diligent preparation by the parties.

IT IS SO STIPULATED.

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: February 25, 2008

/s/
GARTH HIRE
Assistant United States Attorney

Attorney for United States of America

Dated: February 25, 2008

/s/
WILLIAM A. WELCH

Attorney for Defendant
Charles A. Phillips

ORDER

FOR GOOD CAUSE SHOWN, THE COURT ADOPTS THE FINDINGS OF FACT AND CONCLUSIONS OF LAW STIPULATED TO BY THE PARTIES. THEREFORE, IT IS SO FOUND AND ORDERED THAT:

1. A status conference hearing is now scheduled for 9:00 a.m. on March 7, 2008.
2. The time period from February 1, 2008, to March 7, 2008, is deemed excludable pursuant to 18 U.S.C. §§ 3161(h)(8)(A), (B)(iv) because it results from a continuance granted by the court at the defendant's request and on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a timely trial and because failure to grant the continuance would unreasonably deny defense counsel the time necessary for effective preparation for trial, taking into account due diligence, and is not the result of general congestion of the court's calendar or a lack of diligent preparation by the parties. The Court finds that nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which trial must commence.

DATED: February 27, 2008

**HONORABLE D. LOWELL JENSEN
UNITED STATES DISTRICT JUDGE**